

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THE POKÉMON COMPANY
INTERNATIONAL, INC.,

Plaintiff,

V.

JON SAHAGIAN; DOES 1-5,

Defendants.

No. 2:15-CV-00866

DECLARATION OF DAVID
SCHWIMMER IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION

J. David Schwimmer, declare as follows:

1. I am over 18 years of age and make this Declaration based upon my personal knowledge of the facts set forth below. If called upon to testify, I could and would testify competently as to the matters set forth herein.

2. I am the Organized Play Manager for Plaintiff The Pokmon Company International, Inc. (“TPCI”), a Delaware corporation with its principal place of business in Bellevue, Washington.

3. TPCi manufactures, markets, and distributes a variety of entertainment products, including movies, television shows, games, and toys throughout the United States and around the world.

4. One pillar of TPCi's business is the popular Pok  mon trading card game ("the

1 Pok  mon TCG"), which was first introduced more than a decade ago. In the Pok  mon TCG,
 2 each player acts in the role of a "Trainer" and uses a number of different types of cards to play
 3 the game, including Pok  mon cards, which represent particular characters known as "Pok  mon."
 4 Players use his/her Pok  mon to battle the Pok  mon of other Trainers. Between games, players
 5 collect Pok  mon TCG cards to assemble their optimal decks. Since the introduction of the
 6 Pok  mon TCG, TPCi has released thousands of trading cards, developing a rich and diverse
 7 Pok  mon universe populated by more than 700 unique characters.

8 5. Each Pok  mon TCG card contains original artwork depicting a unique Pok  mon
 9 character, that character's powers and abilities, a description of the character, and other data
 10 indicating the card's value within the Pok  mon TCG. For example, pictured below is a true and
 11 correct copy of a Pok  mon trading card depicting one version of the iconic TCG character
 12 Pikachu:



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 23 6. Pikachu, pictured above, perhaps the most recognizable Pok  mon within the rich
 24 Pok  mon universe, has become the principal mascot for TPCi and the Pok  mon brand
 25 worldwide. Pikachu appears on numerous cards in the Pok  mon TCG, and is featured in or
 26 around the branding for championship tournaments and other events TPCi organizes with respect
 27 to the Pok  mon TCG. A true and correct copy of another Pikachu Pok  mon TCG card is pictured

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1 below:

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13 7. Other Pokemon have generated strong followings from fans over the years from, in part,
14 frequent appearances in the Pokemon TCG. For example, Charizard regularly appears in the
15 Pokemon TCG and has been featured in or around the branding for Pokemon TCG championship
16 tournaments and other TCG events. The Charizard card remains the card most coveted by
17 collectors. A true and correct copy of a Charizard Pokemon TCG card appears below:



1 8. Mewtwo is another of the most popular Pokémon. Mewtwo is frequently featured in the
 2 Pokémon TCG and in various Pokémon media and products. A true and correct copy of a
 3 Mewtwo Pokémon TCG card is shown below:



14 9. Pikachu, Charizard, and Mewtwo are just three of the more than 700 Pokémon which
 15 populate the diverse Pokémon TCG universe developed by TPCi over more than a decade.

16 10. TPCi products, particularly the Pokémon TCG expansion sets, are rolled out to
 17 significant fanfare and marketed to millions of users in the United States and around the world.
 18 For example, in 2014, TPCi invested more than \$6 million in domestic advertising and
 19 promotions associated with the Pokémon TCG.

20 11. I have reviewed the "TCG Sets & Card Scans" section of the PokéBeach Site
 21 (www.pokebeach.com) and it appears to contain scans of all or nearly all of the Pokémon TCG
 22 cards that have been developed over the history of the Pokémon TCG.

23 I declare under penalty of perjury under the laws of the United States that the foregoing is
 24 true and correct.

25 DATED: May 28, 2015

26
 27 David Schwimmer

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